

Honorable David G. Estudillo

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CINDY VAN LOO, an Oregon resident, as
Personal Representative of the ESTATE OF
MICHAEL F. REINOEHL;

Plaintiff,

vs.

THE UNITED STATES OF AMERICA; PIERCE
COUNTY, a political subdivision of the State of
Washington; the MUNICIPALITY OF
LAKEWOOD, a municipal corporation; STATE
OF WASHINGTON; JAMES OLEOLE, an
individual; CRAIG GOCHA, an individual;
MICHAEL MERRILL, an individual; and
JACOB WHITEHURST, an individual.

Defendants.

NO. 3:23-cv-05618-DGE

**ANSWER OF DEFENDANTS
CITY OF LAKEWOOD AND
MICHAEL MERRILL TO
PLAINTIFF'S COMPLAINT
AND AFFIRMATIVE
DEFENSES**

TO: PLAINTIFF;

AND TO: ATTORNEYS FOR PLAINTIFF.

COME NOW Defendants City of Lakewood and Michael Merrill, ("Defendants") by and through the undersigned counsel, and for Answer to the Plaintiff's Complaint, admits, denies and alleges as follows:

In Answer to the "Introduction" section of Plaintiff's Complaint, Defendants deny the same.

**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 1**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.*
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1 2.1 This paragraph does not make factual allegations that can be admitted or denied
2 and it is denied on that basis.

3 2.2 This paragraph does not make factual allegations that can be admitted or denied
4 and it is denied on that basis.

5 2.3 This paragraph does not make factual allegations that can be admitted or denied
6 and it is denied on that basis.

7 3.1 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 3.2 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 3.3 This paragraph makes allegations against other defendants and is neither admitted
12 nor denied on that basis.

13 3.4 This paragraph makes allegations against other defendants and is neither admitted
14 nor denied on that basis.

15 3.5 This paragraph is admitted.

16 3.6 This paragraph makes allegations against other defendants and is neither admitted
17 nor denied on that basis.

18 3.7 This paragraph makes allegations against other defendants and is neither admitted
19 nor denied on that basis.

20 3.8 The first sentence of this paragraph is admitted. The Defendants object to the
21 second sentence as a conclusion of law and it is denied on that basis.

22 3.9 This paragraph makes allegations against other defendants and is neither admitted
23 nor denied on that basis.

24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 2**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 3.10 This paragraph makes allegations against other defendants and is neither admitted
2 nor denied on that basis.

3 4.1 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 4.2 This paragraph makes allegations against other defendants and is neither admitted
6 nor denied on that basis.

7 4.3 This paragraph is admitted.

8 4.4 This paragraph makes allegations against other defendants and is neither admitted
9 nor denied on that basis.

10 4.5 This paragraph makes allegations against other defendants and is neither admitted
11 nor denied on that basis.

12 4.6 This paragraph makes allegations against other defendants and is neither admitted
13 nor denied on that basis.

14 5.1 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.2 Defendants are without sufficient information to admit or deny and therefore
17 denies the same.

18 5.3 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.4 Defendants admit Reinoehl was shot during a police operation on September 3,
21 2020. The remainder of this paragraph is denied.

22 5.5 Defendants admit this paragraph.

23 5.6 Defendants admit this paragraph.

24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 3**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.7 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.8 Defendants admit Michael Merrill was employed by Lakewood Police Department
4 at the time of this incident. The remaining allegations concern other defendants and require no
5 response and are neither admitted nor denied.
6

7 5.9 Defendants admit Michael Merrill was employed by Lakewood Police Department
8 at the time of this incident. The remaining allegations concern other defendants and require no
9 response and are neither admitted nor denied.

10 5.10 Defendants are without sufficient information to admit or deny and therefore
11 denies the same.

12 5.11 This paragraph makes allegations against non-parties and is neither admitted nor
13 denied on that basis.
14

15 5.12 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.13 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.14 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.15 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.
23

24 5.16 Defendants are without sufficient information to admit or deny and therefore
25 denies the same.
26

**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 4**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.17 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.18 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.19 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.20 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.21 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.22 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.23 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.24 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.25 Defendants are without sufficient information to admit or deny and therefore
18 denies the same. Defendants further object to this paragraph as a conclusion of law not an
19 allegation of fact and it is denied on that basis.

20 5.26 Defendants are without sufficient information to admit or deny and therefore
21 denies the same. Defendants further object to this paragraph as a conclusion of law not an
22 allegation of fact and it is denied on that basis.

23
24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 5**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.27 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.28 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.29 This paragraph makes allegations against other defendants and is neither admitted
6 nor denied on that basis.

7
8 5.30 Defendants are without sufficient information to admit or deny and therefore
9 denies the same.

10 5.31 Defendants are without sufficient information to admit or deny and therefore
11 denies the same.

12 5.32 Defendants are without sufficient information to admit or deny and therefore
13 denies the same.

14 5.33 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.34 Defendants are without sufficient information to admit or deny and therefore
17 denies the same.

18 5.35 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.36 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.37 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 6**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.38 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.39 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.40 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.41 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.42 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.43 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.44 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.45 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.46 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.47 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.48 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23
24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 7**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.49 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.50 Defendants admit this paragraph as to Michael Merrill. The remaining allegations
4 concern other defendants and require no response and are neither admitted nor denied.

5 5.51 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.52 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.53 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.54 This paragraph makes allegations against other defendants and is neither admitted
12 nor denied on that basis.

13 5.55 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.56 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.57 Defendants object that this paragraph is a legal conclusion and it is denied on that
18 basis.

19 5.58 Defendants object that this paragraph is a legal conclusion and it is denied on that
20 basis.

21 5.59 Defendants deny this paragraph.

22 5.60 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24 **ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND**
25 **MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND**
26 **AFFIRMATIVE DEFENSES – 8**

Cause No.: 3:23-cv-05618-DGE

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1 5.61 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.62 Defendants deny this paragraph.

4 5.63 Defendants are without sufficient information to admit or deny and therefore
5 denies the same.

6 5.64 Defendants object that this paragraph is a legal conclusion and it is denied on that
7 basis.

8 5.65 Defendants are without sufficient information to admit or deny and therefore
9 denies the same.

10 5.66 Defendants are without sufficient information to admit or deny and therefore
11 denies the same.

12 5.67 Defendants are without sufficient information to admit or deny and therefore
13 denies the same.

14 5.68 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.69 Defendants are without sufficient information to admit or deny and therefore
17 denies the same.

18 5.70 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.71 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.72 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 9**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.73 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.74 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.75 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.76 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.77 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.78 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.79 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.80 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.81 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.82 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.83 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23
24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 10**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.84 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.85 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.86 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.87 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.88 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.89 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.90 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.91 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.92 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.93 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.94 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23
24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 11**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.95 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.96 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.97 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.98 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.99 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.100 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.101 Defendants are without sufficient information to admit or deny and therefore
14 denies the same.

15 5.102 Defendants are without sufficient information to admit or deny and therefore
16 denies the same.

17 5.103 Defendants are without sufficient information to admit or deny and therefore
18 denies the same.

19 5.104 Defendants are without sufficient information to admit or deny and therefore
20 denies the same.

21 5.105 Defendants are without sufficient information to admit or deny and therefore
22 denies the same.

23
24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 12**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.106 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.107 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.108 Defendants are without sufficient information to admit or deny and therefore
6 denies the same.

7 5.109 a. - e. Defendants are without sufficient information to admit or deny and
8 therefore denies the same.

9 5.110 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.111 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 5.112 Defendants deny this paragraph.

14 5.113 Defendants are without sufficient information to admit or deny and therefore
15 denies the same.

16 5.114 Defendants are without sufficient information to admit or deny and therefore
17 denies the same.

18 5.115 Defendants are without sufficient information to admit or deny and therefore
19 denies the same.

20 5.116 Defendants are without sufficient information to admit or deny and therefore
21 denies the same.

22 5.117 Defendants are without sufficient information to admit or deny and therefore
23 denies the same.

24
25
26 **ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 13**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 5.118 Defendants are without sufficient information to admit or deny and therefore
2 denies the same.

3 5.119 Defendants are without sufficient information to admit or deny and therefore
4 denies the same.

5 5.120 Defendants admit Reinoehl died, but deny the remaining allegations in this
6 paragraph.

7 5.121 Defendants are without sufficient information to admit or deny and therefore
8 denies the same.

9 5.122 Defendants are without sufficient information to admit or deny and therefore
10 denies the same.

11 5.123 Defendants are without sufficient information to admit or deny and therefore
12 denies the same.

13 6.1 Defendants incorporate their responses to paragraphs 5.1 - 5.123 above.

14 6.2 Defendants deny this paragraph.

15 6.3 Defendants object that this paragraph is argumentative, and a legal conclusion and
16 it is denied on that basis.

17 6.4 Defendants object that this paragraph is argumentative, and a legal conclusion and
18 it is denied on that basis.

19 6.5 Defendants deny this paragraph.

20 6.6 This paragraph makes allegations against other defendants and is neither admitted
21 nor denied on that basis. To the extent that this paragraph includes allegations against these
22 defendants, it is denied.
23
24
25
26

1 6.7 This paragraph makes allegations against other defendants and is neither admitted
2 nor denied on that basis. To the extent that this paragraph includes allegations against these
3 defendants, it is denied.

4 6.8 This paragraph makes allegations against other defendants and is neither admitted
5 nor denied on that basis. To the extent that this paragraph includes allegations against these
6 defendants, it is denied.

7
8 6.9 This paragraph makes allegations against other defendants and is neither admitted
9 nor denied on that basis. To the extent that this paragraph includes allegations against these
10 defendants, it is denied.

11 6.10 This paragraph is denied as to these defendants.

12 6.11 Defendants object that this paragraph is argumentative, and a legal conclusion and
13 it is denied on that basis.

14 6.12 Defendants object that this paragraph is argumentative, and a legal conclusion and
15 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

16 6.13 Defendants object that this paragraph is argumentative, and a legal conclusion and
17 it is denied on that basis. Defendants deny any factual allegations contained in this paragraph.

18 Defendants deny the plaintiff is entitled to the relief sought in paragraphs 7.1 – 7.5.

19 By way of FURTHER ANSWER and AFFIRMATIVE DEFENSES, Defendants allege:

20 1. That the plaintiffs have failed to state a claim for which relief can be granted against
21 these defendants.

22 2. That qualified immunity under state and federal law precludes plaintiffs' claims.

23 3. That the public duty doctrine and qualified and/or good faith immunity preclude
24 plaintiffs' state law claims.

25 **ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND**
26 **MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND**
 AFFIRMATIVE DEFENSES – 15

Cause No.: 3:23-cv-05618-DGE

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511

1 4. That the plaintiffs' comparative fault and intentional criminal conduct proximately
2 caused their damages, if any.

3 5. That the plaintiffs failed to mitigate their damages, if any.

4 6. That the plaintiffs' damages, if any, were caused by fault of parties not in the
5 control of Defendants or non-parties not in the control of Defendants.

6 7. That the plaintiff was engaged in the commission of a felony at the time of the
7 occurrence causing the injury and the felony was a proximate cause of the injury. Therefore,
8 Plaintiffs' claims are barred by RCW 4.24.420.

9 8. That the plaintiffs lack standing to pursue one or more of their claims.

10 Defendants expressly reserve the right to amend this Answer, including the addition of
11 affirmative defenses warranted by investigation and discovery, and to make such amendments
12 either before or during trial, including asserting other defense theories or conforming the
13 pleadings to the proof offered at the time of trial.
14
15

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 16**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

1 WHEREFORE, Defendants pray as follows:

2 1. That plaintiffs' Complaint be dismissed with prejudice and that plaintiffs take
3 nothing by their Complaint and that Defendants be allowed their costs and reasonable attorneys'
4 fees herein.

5 Dated this 15th day of August, 2023.

6
7 LAW, LYMAN, DANIEL, KAMERRER
& BOGDANOVICH, P.S.

8 */s/ John E. Justice*

9 John E. Justice, WSBA No. 23042
10 Attorney for Defendants City of Lakewood
and Michael Merrill
11 P.O. Box 11880, Olympia, WA 98508
Phone: (360) 754-3480 Fax: 360-754-3480
12 Email: jjjustice@lldkb.com

13
14
15
16
17
18
19
20
21
22
23
24
25
26
**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
AFFIRMATIVE DEFENSES – 17**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.
ATTORNEYS AT LAW
2674 R.W. JOHNSON RD. TUMWATER, WA 98512
P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
(360) 754-3480 FAX: (360) 357-3511*

CERTIFICATE OF FILING AND SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on this date, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, who will send notification of such filing to the following party:

Plaintiffs' Attorneys:

Rebecca J. Roe, WSBA No. 7560
 Jeffrey P. Robinson, WSBA No. 11950
 SCHROETER, GOLDMARK & BENDER
 401 Union Street, Suite 3400
 Seattle, WA 98101
roe@sgb-law.com
robinson@sgb-law.com

Braden Pence, WSBA No. 43495
 MACDONALD, HOAGUE & BAYLESS
 705 2nd Avenue, Suite 1500
 Seattle, WA 98104-1745
bradenp@mhb.com

Jesse A. Merrithew, WSBA No. 50178
 LEVI, MERRITHEW, HORST, PC
 610 SW Alder Street, Suite 415
 Portland, OR 97205-3605
jesse@lmhlegal.com

Attorney for Def. James Oleole & Craig Gocha:

Mary E. Robnett
 Kerri Ann Jorgensen
 930 Tacoma Avenue South, Suite 946
 Tacoma, WA 98402-2102
Kerri.jorgensen@piercecountywa.gov

Def State of WA Attorney:

Kaylynn What, WSBA No. 43442
 Allison Croft, WSBA No. 30486
 Simmons, Sweeny, Freimund, Smith, Tardiff
 711 Capitol Way South, Suite 602
allison@ssslawgroup.com
kaylynn@ssslawgroup.com
mail@ssslawgroup.com

DATED this 15th day of August at Tumwater, WA.

/s/ Lisa Gates

 Lisa Gates
 Assistant to John E. Justice

**ANSWER OF DEFENDANTS CITY OF LAKEWOOD AND
 MICHAEL MERRILL TO PLAINTIFF'S COMPLAINT AND
 AFFIRMATIVE DEFENSES – 18**

Cause No.: 3:23-cv-05618-DGE

*LAW, LYMAN, DANIEL,
 KAMERRER & BOGDANOVICH, P.S.*
 ATTORNEYS AT LAW
 2674 R.W. JOHNSON RD. TUMWATER, WA 98512
 P.O. BOX 11880 OLYMPIA, WASHINGTON 98508-1880
 (360) 754-3480 FAX: (360) 357-3511